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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,110	06/14/2006	Jurg Egli	5809	5291
26/936 7590 08/04/2009 SHOEMAKER AND MATTARE, LTD 10 POST OFFICE ROAD - SUITE 100 SILVER SPRING, MD 20910				
EXAMINER				
A. PHU DIEU TRAN				
ART UNIT		PAPER NUMBER		
3633				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/570,110

Applicant(s)

EGLI ET AL

Examiner

PHI D. A

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-50 is/are pending in the application.
- 4a) Of the above claim(s) 26 and 32-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25, 27-31 and 40-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restrictions

1. Applicant's election of figures 1-7, 16 to claims 25, 27-31, 40-50 in the reply filed on 6/11/09 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 26, 32-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 25, 28, 40, 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25, the term "bot tom" is improperly misspelled.

Claims 28 "preferably" is confusing the scope of the claim.

Claim 40 "especially" is confusing the scope of the claim.

Claim 50 is confusing in scope. It is unclear if applicant is claiming a product or a process.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 42-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Prince (6668495).

Prince (figure 4) shows a profile for frames of wall elements, doors or windows, having a top part(17) and a bottom part (the other side, see figure 4) and side walls (16) which connect the same and having openings (parts 23 of the side walls forming opening therebetween), wherein on the side walls, in the region of the openings, there are inwardly deformable cams (21) for the fixing of insulation material, wherein the insulation material is held by the cams in a non-positive and/or positive manner, wherein a cam is disposed approximately centrally in the region of the base of an opening, wherein the insulation material is disposed in the region of the side walls, an upper and lower chamber being formed, the side walls additionally have webs (28).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 25, 27-30, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al (1360774) in view of Toti et al (3224154).

Mooney et al (figure 8) shows a profile for frames of wall elements, doors or windows having a top part and a bottom part, each containing an end wall, and having side walls(2) which connect the top part and bottom part and have obliquely running webs, wherein the side walls are

welded to the top part and to the bottom part (col 2 line 75-80), the side walls are disposed on the inner side, at least one side wall has respectively laterally disposed, preferably U-shaped mounting for the reception of a side element, wherein the side walls have parallel-running guide grooves, wherein the webs are configured as a row of approximately V-shaped arrangements, wherein at least one of said webs has a bead(the part of 6 which is inwardly of part 1 or 2) running in the longitudinal direction of the web

Mooney et al does not show the height of the side walls being less than or equal to the distance between the end walls of the top part and bottom part.

Toti et al shows the height of the side walls (2, 3, figures 7, 16) being less than or equal to the distance between the end walls of the top part and bottom part.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mooney et al's structures to show the height of the side walls being less than or equal to the distance between the end walls of the top part and bottom part as taught by Toti et al since changing the dimension of a well known structure would have been an obvious matter of engineering design choice in order to fit a particular design specification.

9. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al (1360774) in view of Toti et al (3224154).

10. Mooney et al as modified shows all the claimed limitations except for a lining is attached to the side walls.

Mooney et al figure 4 shows a lining (13) attached to the side walls.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mooney et al's modified structures to show a lining is attached to the side

walls as shown in figure 4 since it provides for the secure attachment of the top and bottom parts together with the side walls.

11. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al (1360774) in view of Toti et al (3224154) as applied to claim 25 above and further in view of Gwynne (4691494).

12. Mooney et al as modified shows all the claimed limitations except for the top part and bottom part are made of steel and the side walls of a material having lower thermal conductivity than steel, especially of high-grade steel

Gwynne discloses the use of steel for forming a supporting member to form a strong supporting member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mooney et al's modified structures to show the top part and bottom part are made of steel as taught by Gwynne since steel is readily available and provides for good supporting strength, and having the side walls of a material having lower thermal conductivity than steel since it would have been an obvious matter of engineering design choice to choose a particular material for forming a structure as long as it needs a special design requirement.

13. Claims 46-48, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prince (6668495).

Prince shows all the claimed structural limitations. The claimed method steps would have been the obvious method steps of producing Prince's profile.

14. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al (1360774) in view of Toti et al (3224154).

Mooney et al as modified by Toti et al shows all the claimed structural limitations. The claimed method steps would have been the obvious method steps of producing Mooney et al's modified profile.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different profile designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/
Primary Examiner, Art Unit 3633

Phi Dieu Tran A

8/2/09